

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO.18421 OF 2003

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DATE: 29.07.2005.

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Between:

1. Bhojanapu Rajaiah, son of Lingaiah,
aged 55 years, r/o Rumipur village
and 21 others. Petitioners.

And

1. The Land Acquisition Officer-cum-Revenue
Civisional Officer, Mancheria Division,
And 3 others. Respondents.

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ORDER:

This writ petition has been filed by the petitioners, who are 22 in number, with a prayer to issue a writ, order, or direction, more particularly one in nature of writ of Mandamus directing the respondents to issue fresh 4(1) Notification under L.A. Act on par with the petitioner in W.P.No.18040 of 1997 as confirmed in W.A.No.704 of 1998 dated 15.6.1998 and also on par with petitioners in W.P.No.9352 of 1999 dated 29.12.1999 as confirmed by the Division Bench in W.A.No.508 of 2000 dated 26.2.2002 and consequently declare the action of the respondents in paying the compensation under lapsed section 4(1) notification of 1988, as bad in law, highly discriminatory and violative of Articles 14 and 16 of Constitution of India.

2. The facts of the case lie in a narrow compass. The lands of the petitioners have been acquired for laying road under Award dated 24.6.1998. Some of the landowners filed writ petition questioning the Award. The writ petition came to be allowed and a direction came to be issued to the authorities to issue fresh notification under Section 4(1) of Land Acquisition Act and pass award. Accordingly, the authorities issued fresh notification under Section 4 (1) and thereafter passed an Award. The grievance of the petitioners is that so far as their lands are concerned the differential amount as paid to the person similarly situated has not paid to them. The earliest writ petition filed by the landowners is W.P.No.18040 of 1997. The said writ petition came to be allowed on 11.9.1997 directing the authorities to initiate proceedings afresh by issuing draft notification under Section 4 (1) of the Land Acquisition Act. Assailing the order passed in W.P.No.18040 of 1997, the authorities filed W.A.No.704 of 1998. The said writ appeal came to be dismissed. The operative portion of the order passed in writ appeal reads as follows:

“ The payment already made in terms of the earlier order of this Court shall be taken note of at the time of assessing final compensation in terms of the order of the learned single judge. Be it noted that this is apart from the issue of limitation. Since we have dismissed the appeal on merits, we are not recording our observations in regard thereto. Suffice, however, to record that the submissions of the learned advocate appearing in support of the writ petitioner-respondent have some force that the appeal as framed is not maintainable by reason of the same being barred by the laws of limitation.”

Subsequently, second batch of landowners filed W.P.no.9352 of 1999 claiming the similar relief as that of claimed by the writ petitioners in W.P.No.18040 of 1997. The said writ petition came to be allowed on 29-12-1999. The operative portion of the order passed in W.P.No.9352 of 1999 reads as follows:

“ It is a fact that the respondents have issued fresh notification under Section 4(1) of the Act in respect of the petitioner in W.P.No.18040 of 1997, as directed by this court. The petitioners are also similarly placed and therefore it is not open for the respondents to contend that the petitioners are not entitled for the relief prayed for. The contentions advanced by the respondents were considered by this court and they were rejected in W.P.No.18040 of 1997 as well as in the writ appeal filed against the said order by the Division Bench in W.A.No.704 of 1998.

Under the circumstances, the petitioners are entitled for the relief prayed for.

Accordingly, the respondents are directed to issue fresh notification under Section 4(1) of the Act in respect of the petitioners' land and pay the differential amount of compensation along with other benefits to which they are entitled under law. The writ petition is accordingly allowed, but without costs."

The authorities carried the matter in writ appeal No.508 of 2000. The said writ appeal came to be dismissed on 26.02.2000. It can be said without any controversy the second batch of land owners have approached the Court seeking for issuance of fresh notification under Section 4(1) of L.A. Act and the said writ petition is said to be allowed. The authorities unsuccessfully challenged the orders passed in the writ petition by filing writ appeals. The present writ petition has been filed since their case stands in the same footing as that of the petitioners in W.P.No.18040 of 1997.

3. Respondents filed counter affidavit. The factual aspects narrated above are not controverted in the counter affidavit.

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition appearing for respondents.

5. Learned counsel for the petitioner submits that the petitioners stand on the same footing as that of the petitioners in W.P.No.18040/97 and W.P.No.9352/99 and therefore similar direction is required to be given to the respondents in respect of their lands also. It is no more in dispute that the lands of the petitioners and other landowners who filed earlier writ petitions were acquired under the same award. The said award came to be lapsed and the authorities were directed to issue fresh notification in the above said two writ petitions. In all material aspects, the case of the petitioners stands on the same footing as that of the petitioners in W.P.Nos.18040 of 1997 and 9352/99 and therefore, the petitioners in this writ petition are entitled to the same relief.

6. The writ petition is allowed and the respondents are directed to issue fresh notification under Section 4 (1) of the Land Acquisition Act in respect of petitioners'

land and to pay compensation along with other benefits to which they are entitled under law.

B.SESHASAYANA REDDY,J.

Date: 29th July 2005.

BSB